تسهيل اصول الفقه

THE PRINCIPLES OF FIQH MADE EASY

اصول الفقه The Principles of Fiqh

تعريف ***(Ta`reef) Definition:***

It is to have the knowledge of those laws which provide the means for proving and substantiating the Rulings of the Shariah with comprehensive and in depth proofs.

موضوع ***(Maudoo`) Subject Matter:***

The "Four Proofs", i.e. Qur`aan, Sunnat, Ijma and Qiyaas, which are used to prove the Rulings of the Shariah.

غرض ***(Ghardh) Object (in studying this subject):***

To become privy and knowledgeable of the comprehensive proofs for the Rulings of the Shariah and to become aware of the various laws and proofs for the Rulings of the Shariah.

ضرورت *(Dhuroorat) Obligation (in acquiring this knowledge)*

Muslims are bound by the Laws of the Shariah, and these very laws are extracted from the guidelines (principles) acquired in this study. Hence, since there exists an obligation to know the Laws of the Shariah there is an obligation to know its guidelines.

واضع اول *(Waadi' Awwal) Initiators (founders)*

They are the Aimmah-e-Mujtahiddeen. The very first persons who compiled and codified the principles of Fiqh were Imaams Abu Yusuf and Muhammad (rahmatullahi alaihima), who were known and *Saahibain*. The oldest compilation which exists is that of Imaam Shaafi (rahmatullahi alaih), which is entitled, *"Ar-Risaala"*.

QUESTIONS

1. *What is the definition of Usoolul Fiqh?*
2. *What comprises the subject matter of Usoolul Fiqh?*
3. *What is the object in studying Usoolul Fiqh?*
4. *Explain the necessity in studying Usoolul Fiqh.*
5. *Who was the initiators of Usoolul Fiqh?*
6. *Who is the author of the first compilation of Usoolul Fiqh and what was it entitled?*

حكم HUKM

لغوي معني *Dictionary meaning:*

Where a decision/ruling is established for one thing, by confirming or negating another.

تعريف *Definition:*

This is where the Address of Allaah Ta'ala is directed at the actions of the *Mukallifeen (those upon whom Shar'i injunctions are binding)* , either:
1). Requiring them to carry out a certain task or not to. This can either be obligatory or not, or
2). It gives them a choice to execute a certain task or not.

مكلّف *Mukallif:*

This refers to that sane, mature adult from whom the Shariah requires compliance to its injunctions.

اركان حكم *The requisites/constituents of Hukm:*

These are four:
1). Haakim (The One Who issues the Decrees), i.e. Allaah Ta'ala,
2). Mahkoom Alaih (that person upon whom the Hukm applies),
3). Mahkoom Feehe (That action/ thing which is being ordered),
4). Mahkoom Behe (The description applied to the Hukm, like Waajib, Sunnat, Mustahab, etc.)

اقسام حكم *Types of Hukm*

There are two types:
Takleefi and *Wadh'i*

حكم تكليفي *Hukm-e-Takleefi*

Where either the execution or non-execution of an action is sought. Or it is one where a choice is given, either obligatory or not.

اقسام *Types:*

1). Waajib(واجب) - where the execution is binding
2). Mahdhoor(محظور) - where non-execution is obligatory
3). Mandoob (مندوب)- that (ruling) whose execution is non-obligatory
4). Makrooh (مكروه)- that whose non-execution is non-obligatory
5). Mubaah (مباح)- that wherein a choice is offered between execution and non-execution

Fardh and Waajib Istilaahi fall under (the definition of) Waajib.
Haraam and Makrooh-e-Tahreemi fall under Mahdhoor.
Masnoon and Mustahab fall under Mandoob.
Makrooh-e-Tanzeehi fall under Makrooh.

حكم وضعي *Hukm-e-Wad'i*

That which is a sign or indication for Hukm-e-Takleefi.

اقسام*Types*

Illat(علّت) , Sabab(سبب) , Shart(شرط) and Maani'(مانع)

1). Illat – That which affects/influences the existence of a *Hukm*. For example, purchasing for ownership.
2). Sabab – That which affects/influences the obligation of a *Hukm*. For example, time for Salaat.
3). Shart – That upon which the existence of the *Hukm* is dependent. For example, the passing of a year for the obligation of Zakaat.
4). Maani` -- That which prevents a *Hukm*. For example, the freedom of a free man in his sale (selling him). That is, a free person cannot be traded in (bought or sold).

QUESTIONS:

1. *What is the literal meaning of Hukm?*
2. *What is the Shar'i definition of Hukm?*
3. *How many constituents are there of Hukm and what are they?*
4. *How many different types of Hukm are there and what are they?*
5. *Describe Hukm-e-Takleefi.*
6. *How many types of Hukm-e-Takleefi are there and what are they?*
7. *Explain each type in detail*
8. *What is Hukm-e-Wad`i?*
9. *How many types of Hukm-e-Wad`i are there and what are they?*
10. *Explain each type in detail*

ادله اربعه/THE FOUR PROOFS

You have already learnt that the subject matter of Usoolul Fiqh are the four proofs. This topic and subject centres around the discussion of these.

The four proofs are as follows: *Qur`aan Majeed, Sunnat, Ijma* and *Qiyaas*. In order to prove any ruling/law (of the Shariah), this will be the order of preference, as stated.

The first place where a proof will be sought is the Qur`aan Majeed, next the Hadith, and then only will Ijma be utilised. (If nothing can be found in the above three) then only will Qiyaas be brought into effect.

QUR`AAN MAJEED

***Literal definition:* لغة**

Either it is a root-word in the meaning of **القرأة** which means recitation, or it is an *ism-e-maf`ool* in the meaning of **المقروء** which means the recited.

***Shar`i Definition:*اصطلاحا**

This refers to that Scripture which was revealed from the heavens upon our Beloved Nabi ρ, wherein there is no doubt (regarding its authenticity) and it has come down the ages in its protected form. Both, the words and meanings contained therein testify thereto.

The *Usooliyeen (Legislators)* study and discuss the import of the Qur`aan Majeed, and since the words and letters are essential in understanding the meaning and import of the Qur`aan Majeed, therefore, they have categorised the words into five categories:

1.) Firstly, the meaning with regard to the *Maudoo` Lahu* (subject matter to which it refers);
2.) Secondly the meaning with regard to its apparent connotation;
3.) thirdly with regard to its hidden connotation;
4.) fourthly with regard to its context/usage and
5.) lastly, with regard to the import and intention of the Speaker.

QUESTIONS:

1. *What is discussed in the subject of Usoolul Fiqh?*
2. *What is the order to be followed when proving any Shar`i Law?*
3. *What is the literal meaning of Qur`aan?*
4. *What is the Shar`i definition of Qur`aan?*
5. *Are both the words and meanings testification to the Qur`aan Majeed?*
6. *How do the Usooliyeen categorise and discuss the words and meanings? How many types have they categorised it in?*
7. *How is this categorisation effected?*

THE FIRST TYPE

Words are firstly categorised according to their Maudoo`Lahu

Words are or four types insofar as their *Maudoo` Lahu* is concerned:

Khaas (خاص), `Aam (عام), Mushtarak (مشترك) and Muawwal (مؤول).

1. Khaas

It is that word which is used to refer to a specific thing.

Types:

There are three types of

1.) *Khaas*;
2.) *Khaas Jinsi* for example, mankind;
3.) *Khaas Naw'i*, for example, men and
4.) *Khaas Fardi*, for example, Zaid, Bakr and Amar. This is further broken down into various types.

Ruling

Whatever is proven with this is definitive (*Qat'i*) and is free from any possibilities and ambiguities. Practice upon this is incumbent.

Example

Regarding *Kaffaarah* (compensation) for breaking a promise, Allaah Ta'ala states: "*Thus (its compensation is) three days of fast."* In this Aayat, the word *Thalaatha (three)* is *Khaas*. It cannot mean more or less than three.

An Important type

Whereupon the Usooliyeen deliberate upon in great detail, are two; *Amar* and *Nahiy.*

QUESTIONS

1. *As far as the objective of words are concerned, how many different types are there and what are they?*
2. *Describe Khaas.*
3. *How many different types of Khaas are there and what are they?*
4. *Explain the ruling of Khaas.*
5. *Mention an example of Khaas.*
6. *How many important types of Khaas are there and what are they?*

AN IMPORTANT TYPE OF *KHAAS*

Amar امر and Nahiy نہی

***Amar* امر**

Literal meaning:

To issue an order / give an instruction.

Shar'i meaning:

To make a task binding on someone else.

Ahkaam (Laws):

(1). It is imperative that *Amar* appears in the *Segha* (scale) of *Amar*. It can either be in the scale of *Fe'l Amar* or an *Ism-e-Fe'l* in the meaning of *Amar*, or a *Masdar* which is in the place of a *Fe'l*, for example, where the word is a *Masdar* in the place of.
(2). *Amar* in reality and generally comes to denote compulsion.
(3). The compulsion is fulfilled if the ordered act is executed once.
(4). It is necessary for there to be *Husn* (goodness) in the ordered (act). This *Husn* has to be either in the act itself, like Salaat, fasting, etc., or that *Husn* is in something else and not in the actual ordered (act), like Jihaad, whose reality is war and bloodshed, nevertheless, there is goodness (*Husn)* in the objective, which is to elevate the Name of Allaah Ta'ala.

***Nahy* نهي**

Literal meaning:

To prevent or forbid.

Shar'i meaning

To make binding upon someone else the non-execution of an act.

Ruling

(1). It is necessary that *Nahy* comes in the scale of *Fe'l Nahy*.
(2). *Nahy* in reality and generally confirms and verifies a *Hurmat* (impermissibility).
(3). It is necessary for there to be evil in the forbidden (act/thing). This evil can either be in the forbidden thing itself, like *kufr, shirk,* performance of Salaat in the state of impurity, murder, fornication, etc., or the evil does not exist in the actual forbidden act itself, but rather due to it, like, fasting on the days of Eid or buying and selling after the Athaan of Jumuah.

QUESTIONS:

1. *What is the literal meaning of Amar?*
2. *Define the Shar'i meaning of Amar?*
3. *What is necessary for the compulsion of Amar (to take effect)?*
4. *What in reality is established by Amar?*
5. *Is it compulsory to practice upon an Amar for a second time (i.e. twice)?*
6. *Is there evil or goodness to be found in Amar?*
7. *How many types of Husn are there? Explain in detail.*
8. *What is the literal meaning of Nahy?*
9. *Define the Shar'i meaning of Nahy.*
10. *What is necessary for the implementation of Nahy?*
11. *What in reality is established by Nahy?*
12. *Is there goodness or evil to be found in the forbidden act?*

13. How many types of evil are there and what are they? Explain in detail.

The remaining types:

Aam* عام*- Definition

It is that word which is used to denote a group of individuals. This is either effected by word or by meaning. For example, words which denote a type (like Muslims, Mushriks), or a word which denotes a group, like man(-kind), caravan, etc.

Types:

There are two – Aam which is attributed to generality (*Aam Mahmool bar U'moom*) and Aam which is attributed to specifics (*Aam Mahmool bar Khusoos*).

1). *Aam Mahmool bar U'moom* is where the *Aam* remains in its general form and no particle thereof is excluded.

Ruling:

The extracted (proven) ruling is *Qat`i* (definitive), and it is obligatory to practice thereupon.

Example:

Allaah Ta`ala states in the Qur`aan Majeed:

فاقرؤا ما تيسّر من القران

"Recite that which is simple from the Qur`aan" (Muzzamil -20)

In the Aayat the word **ما** is *Aam*. Hence it is incumbent to recite a portion from the Qur`aan Majeed whilst performing Salaat.

2). *Aam Mahmool bar Khusoos* This is where some particles (from the general) are excluded by means of some proof. That is, they (these exclusions) fall beyond the scope of the ruling (extracted from this *Aam*).

Ruling:

The extracted (proven) ruling is *Qat`i* (definitive), and it is obligatory to practice thereupon, with the possibility that some other particle can also be excluded therefrom.

Example:

Allaah Ta`ala states in the Qur`aan Majeed:

و احلّ لكم ما وراء ذالكم

"All others are lawful (apart from those)" (An Nisaa 24)

In this Aayat also the word **ما** is *Aam*. However, besides the *Muhrimaat* (those women to whom wedlock is not permissible) that are mentioned in the previous Aayat, there are others also which have been mentioned in other Aayaat in the Qur`aan Majeed. Hence this has been attributed to specifics.

***Mushtarak* مشترك**

This refers to that word which denotes two or more meanings.

Ruling:

1). After contemplating and reflecting upon the Qur`aan Majeed, one should derive a preferred meaning and practice should be made on the preferred derivative.

2). Only a single meaning is to be taken at any given time or occasion.

Example:

As mentioned in the Qur`aan Majeed with regard to the *Iddat* of talaaq:

ثلاثة قروء

"three periods" (Baqarah – 228)

The word **قروء** is *Mushtarak.* This word means purity and menstruation. The Ahnaaf have taken the meaning to be menstruation based on certain proofs.

Mu`awwal مؤول

This refers to *Mushtarak* where one particular meaning has been accepted and is practiced upon.

Ruling:

Practice thereupon is obligatory, with the possibility of being in error.

Example:

To take one meaning of the word **قرء** from the example cited in *Mushtarak.*

QUESTIONS

1. *Define Aam*
2. *How many different types of Aam are there?*
3. *Define Aam Mahmool bar U'moom?*
4. *What is the ruling of this type?*

5. *Dilate citing an example*
6. *What is Aam Mahmool bar Khusoos?*
7. *What is the ruling of this type?*
8. *Cite an example*
9. *Define Mushtarak*
10. *Give the ruling of Mushtarak by explaining with an example*
11. *What is the ruling of Mu`awwal?*
12. *What is Mu`awwal?*
13. *Cite an example of Mu`awwal*

THE SECOND TYPE

With regard to the external and apparent meaning

Zaahir ظاهر With regard to the external meaning of words, there are four types; *Zaahir, Nass, Mufassar and Muhkam.*

1). Zaahir* ظاهر *Definition:

This refers to that word, where the listener understands its import by merely listening to it, without any reflection or contemplation.

Hukm

Whether it is *Aam* or *Khaas*, practice thereupon is obligatory, with the possibility of it being subject to *Ta`weel (interpretation), Takhsees (exceptions) and Naskh (abrogation).*

Example

احلّ الله البيع و حرّم الربوا

"Allaah has permitted trade and forbidden usury" (Baqarah – 275)
From this Aayat, every listener will immediately understand the permissibility of trade and prohibition of usury.

2). Nass* نص *Definition:

It is that *Zaahir* which is also the crux and object of the speech.

Hukm

Practice thereupon is obligatory with the possibility of interpretation and abrogation.

Example

The *Zaahir* (apparent) meaning of the abovementioned Aayat is the permissibility of trade and prohibition of usury, whereas the crux and objective was to differentiate between trade and usury.

3). Mufassar* مفسر *– Definition:

This is that *Zaahir*, which is the objective of the speech and where the Speaker had Himself excluded the possibility of (further) interpretation and *Takhsees*.

Hukm

Practice thereupon is obligatory, however, the possibility of abrogation still remains.

Example:

قاتلوا المشركين كافّة

"fight against all the mushrikeen" (Taubah – 36)

In this Aayat the word **كافّة** has excluded the possibility of any exceptions amongst Mushrikeen.

4). Muhkam* محكم *– Definition

This is that *Zaahir* which is the objective of the speech, and wherein there is no possibility of anything further; no (further) interpretation, *Takhsees* (exception) or *Naskh* (abrogation).

Hukm

Practice thereupon is obligatory *Qat`an* (definitive) without any possibilities.

Example:

ولا ان تنكحوا ازواجه من بعده ابدًا

"and nor should you ever marry his wives after him (death)" (Ahzab – 53)

This ruling applies to the Ummat of Nabi ρ and their prohibition from marrying any of his surviving spouses. This ruling applies definitively and is not abrogated.

QUESTIONS

1. *How many different types of words are there with regard to their apparent meaning and what are they?*
2. *Define Zaahir*
3. *What is the Hukm of Zaahir?*
4. *Cite an example.*
5. *Define Nass*
6. *What is the ruling of Nass?*
7. *Cite and example.*
8. *Define Mufassar*
9. *What is the ruling of Mufassar?*
10. *Cite and example.*
11. *Define Muhkam*
12. *What is the ruling of Muhkam?*
13. *Cite and example.*

THE THIRD TYPE

With regard to the hidden meaning

Above we explained the type where the apparent meaning of words were discussed, now we discuss the opposite, that is, where the hidden meaning of words are concerned. Here also there are four types; *Khafi, Mushkil, Mujmal and Mutashaabih.*

1). Khafi خفي– Definition

This is that word, which insofar as its apparent meaning is concerned it is clear, however there is something hidden therein with regard to some other factor. However this hidden aspect is removed after minimal interpretation.

Hukm

By means of reflection and contemplation, the reason for the hidden meaning must be sought. After finding an appropriate meaning, its ruling falls under that of *Zaahir.*

Example

The word *Saariq* is used to denote a thief. Nevertheless, it has a hidden (*Khafi*) denotation to a pickpocket and Kafan-thief. Although these (latter) two have their own individual words, the result is the same, where a protected thing is taken. The difference does come in the fact that a thief steals when the owner of the stolen article is unaware and not present, whereas a victim of a pickpocket is awake and present. It is for this reason that the pickpocket will be included in the ruling of a thief, but not a kafan-thief, because a kafan is not a protected thing.

2). Mushkil **مشكل** *-- Definition:*

This is that word where the hidden meaning is used in various different contexts. Or because the ambiguity reaches such an extent that its import is not clear anymore. A considerable amount of reflection and contemplation is required to remove the ambiguity.

Hukm:

Firstly, research should be made on the various meanings which apply to the word. After reflection, a suitable and appropriate meaning should be specified.

Example

والمطلقات يتربصن بانفسهنّ ثلاثة قروء

"and the divorced women shall wait for 3 periods" (Baqarah – 228)

In this Aayat the word **قروء** is *Mushkil,* because there are various possible meanings for this word. After reflection, a suitable meaning is specified and then by taking the assistance of various proofs this meaning is further entrenched. One group has taken the meaning to be purity and another group has taken it to mean menstruation.

3). Mujmal **مجمل** *-- Definition*

This is where the hidden meaning is not established by reflection and contemplation, except by dilation of the Speaker.

Hukm

There should be certainty in the meaning and import to be true and the Haqq. This should be our firm belief. No meaning should be attached (to such words) until clarity is not attained or forthcoming from the Speaker. This clarity can either be by means of speech or

action.

Example

وامسحوا برؤوسكم

"and wipe (pass wet hands over) your heads" (Maa'idah – 6)

In this Aayat mention is made of Masah of the head. However there is no limit specified. Nabi ρ had demonstrated by means of action the masah of the head the limit to the size of the forehead.

4). Mutashaabih* متشابه*-- Definition

This is similar to *Mujmal,* however the true meaning of the word is not known to us in this world, owing to the fact that the Speaker has not clarified it for us.

Hukm

After accepting and having belief that the meaning (whatever it is) to be true and Haqq, we adopt silence (i.e. No further discussion is allowed into the meaning of such words).

Example

These are the *Huroof-e-Muqatta'aat*. That is those words which are the beginning of most Surahs, like *Alif, Laam Meem, Haa, Meem,* etc. The meaning of such words are unknown to us.

QUESTIONS

1. *As far as the hidden meanings of words are concerned, how many types are there and what are they?*
2. *Define Khafi*
3. *What is the Hukm of Khafi*
4. *Cite and example of Khafi*

5. *Define Mushkil*
6. *What is the ruling of Mushkil?*
7. *Cite an example of Mushkil*
8. *What is Mujmal?*
9. *What is the Hukm of Mujmal?*
10. *Explain by means of an example*
11. *Explain the ruling and example of Mutashaabih*

THE FOURTH TYPE

Words insofar as their usage is concerned

Words are divided into two types insofar as the usage of their meanings are concerned: *Haqeeqat and Majaaz.* These two are further subdivided into two types each: *Sareeh and Kinaayah.* This lesson discusses these four types.

1). Haqeeqat حقيقت-- Definition

That word whose usage denotes the objective (of the sentence).

Hukm

The word should be considered in accordance to the (literal) meaning it is used for and the appropriate ruling applied.

Example

يايّهاالذين امنوااركعوا و السجدوا

"O you who believe bow down and prostrate yourself" (Hajj – 77)
The objective of this Aayat is to denote the ruling of Ruku and Sajdah.

2). Majaaz مجاز—Definition

This refers to that word whose usage, owing to some appropriate factor and context, denotes something other than the literal meaning.

Hukm

The figurative meaning will be taken into consideration.

Example

انيّ اراني اعصر خمرا

"Verily, I saw myself pressing wine" (Yusuf – 36)

In this Aayat, the word خمرا is *Majaaz.* The literal meaning of the word is wine, but in this context it means the grapes used in wine-making. The reason for this is that wine itself is not squeezed or crushed.

3). Sareeh صريح- Definition

This is where the objective of the word is clear and unambiguous. A person understands it by mere listening.

Hukm

The effect and ruling of such words are applied to the actual speech without any hesitation or reflection. That is, there is no need for any intention, neither is it considered.

Example

In Haqeeqat: بعت and اشتريت, etc. are words used in buying and selling and are used in their literal sense.

In Majaaz: If a person says اكلت من هذه الشجرة, then it means that he ate the fruit from the tree.

4). Kinaayah كنايه-- Definition

This is where the objective is not the apparent. By the mere listening to the word the import is not understood.

Hukm

The ruling of the *Zaahir* meaning would be suspended until the objective is made clear either by the occasion, context or the speaker's intention becomes clear.

Example

In Haqeeqat: A group of people are discussing a certain person, who suddenly makes an appearance. By the group saying amongst themselves, *"He has come"* , they all understand what is meant.

In Majaaz: By saying اعتدّي, the speaker means talaaq. This word is both *kinaayah* and *majaaz.* It is *kinaayah* because the word means to count, and in this case what is there to count? This is not mentioned hence the mere mention of the word does not make clear the meaning. Therefore this is *kinaayah.* The object of this word is made apparent by occasion or context. It is *majaaz* because the meaning is taken to be the counting of the days of *iddat*. In this case there is a clear connection.

QUESTIONS

1. *How many types of words are there with regard to their usage and what are they?*
2. *Define Haqeeqat*
3. *What is the ruling of Haqeeqat?*
4. *Cite an example*
5. *Define Majaaz?*
6. *What is the Hukm of Majaaz?*
7. *Cite an example*
8. *What is the Hukm of Sareeh?*

9. *What is Sareeh?*
10. *Cite an example*
11. *Describe Kinaayah*
12. *What is the Hukm of Kinaayah?*
13. *Cite examples of Kinaayah*

THE FIFTH TYPE

The method of ascertaining the desired meaning

There are four ways of ascertaining the import and objective of the speaker: *Ibaaratun Nass, Ishaaratun Nass, Dalaalatun Nass* and *Iqtidhaa'un Nass.*

1). Ibaaratun Nass عبارة النص *– Definition*

This is where the sentence indicates towards that Hukm for which the statement was (actually) made.

Hukm

Practice and consideration thereof is obligatory.

Example

فانكحوا ما طاب لكم من النساء مثني و ثلاث و رباع

"then marry women of your liking (choice) 2 or 3 or 4" (An Nisaa – 3)

In this Aayat there is consent, by way of *Ibaaratun Nass,* for general Nikah (marriage) and for taking upto four wives in marriage.

2). Ishaaratun Nass اشارة النص *– Definition*

This is where the words indicate to such a *Hukm*, which is neither the (actual) reason why the statement was made, nor is its import clearly understood, except after slight reflection and contemplation.

Hukm

The ruling is understood after slight reflection, whereafter practice thereupon is obligatory.

Example

وعلي المولود له رزقهنّ و كسوتهنّ بالمعروف

"the father of the child shall bear the cost of the mothers food and clothing in a reasonable basis" (Baqarah – 233)

This is an example of both, *Ibaaratun Nass and Ishaaratun Nass.* It falls under *Ibaaratun Nass* since it indicates the obligation of maintaining the suckling mother.

It is *Ishaaratun Nass,* because after slight reflection, one understands that the lineage of children is established through their fathers. That is, the family of the father are regarded as the family of the children (i.e. their lineage). This is established, even though this is not the true reason for this statement having been made neither is this factor clearly obvious from the mere text.

3). Dalaalatun Nass* دلالة النص *– Definition

This is where the reason for the Hukm, which is present in the words, is indicated towards by the terminology used. This is done in such a way where the *Ahle Lughat* lexicographers will easily understand its import.

Hukm

The reason (*Illat*) for the Hukm in the given statement is wide-ranging owing to its (general) usage. That is, wherever the *Illat* is found, the Hukm will apply.

Example

لا تقل لهما أفّ

"say not to them a word of disrespect" (Al- Israa – 23)

In this Aayat, the children have been instructed not to say *"Oof"* to their parents. The experts in speech will easily understand that here is meant that they (the parents) should not be caused difficulty and inconvenience by their children. The object here is that the parents should be saved from all types of difficulty and troubles (from their children), and not only from this particular word ('Oof').

4). Iqtidaa`un Nass اقتضاءالنص*– Definition*

This is where the words indicate towards such a meaning beyond that of the actual *Nass*, whereupon the truthfulness and veracity of the statement, in accordance to the Shariah, depends.

Hukm

Consideration of the statement and the Hukm will be placed thereupon in proportion to the necessity.

Example

Nabi ρ said:

انما الاعمال بالنّيّات

The apparent meaning of the statement is: *'No action comes into existence without any intention'*. This is not the intended meaning of this statement. From this we understand that Nabi ρ meant something else, i.e. that the reward (*Thawaab*) of actions depend on their intentions. The word *Thawaab* is beyond (extra) to the actual text, and its inclusion and consideration was necessary to take into

account, without which the statement would be meaningless and incorrect.

QUESTIONS

1. *How many types of speech are there with regard to the object of the speaker, and what are they?*
2. *Define Ibaaratun Nass*
3. *What is the Hukm of Ibaaratun Nass?*
4. *Cite and example*
5. *Define Ishaaratun Nass*
6. *What is the Hukm of Ishaaratun Nass?*
7. *Cite and example*
8. *Define Dalaalatun Nass*
9. *What is the Hukm of Dalaalatun Nass?*
10. *Cite and example*
11. *Define Iqtidhaa`un Nass*
12. *What is the Hukm of Iqtidhaa`un Nass?*
13. *Cite and example*

THE TYPES OF ‘BAYAAN’

Sometimes the speaker discerns the need to dilate and expound on his speech. This dilation is classified under the title of *Bayaan* by the *Usooliyeen*. Since the objectives of this dilation and expansion (of speech) are few, hence they have been classified under five categories.

Bayaan* بيان *– Dictionary Definition

To make clear, apparent, expound, dilate.

Shar`i Meaning

It refers to that speech or part of speech where the objective of the speaker is made clear.

Types – There are five:

Bayaan-e-Taqreer, Bayaan-e-Tafseer, Bayaan-e-Taghreer, Bayaan-e-Dharoorat and *Bayaan-e-Tabdeel*.

1). Bayaan-e-Taqreer* بيان تقرير *– Definition

To emphasise and accentuate a statement with such words that the possibility of any figurative meaning or exclusions are clearly ruled out.

Hukm

It is considered under all circumstances, regardless of whether the preceding sentence is joined or not.

Example

ولا طائر يطير بجناحيه

In this Aayaat the word طائر is *Majaaz*, but the words that follow, clearly removes this possibility.

2). Bayaan-e-Tafseer بيان تفسير Definition

To expound and explain that word / sentence whose objective was unclear.

For example to clarify the objective of *Mujmal* or to specify the objective of a *Mushtarak.*

Hukm

It will be considered whether they (the sentence and the explanation) are joined or not.

Example

The concept of Salaat, Zakaat, etc., are unclear and vague (*Mujmal*) in the Qur`aan Majeed. The vagueness and unclarity is removed by the actions and explanations of Nabi ρ.

3). Bayaan-e-Taghyeer بیان تغییر-- Definition

To change an established ruling by the following sentence.

Hukm

If they are joined (one following the other), then it will be considered, otherwise not.

Example

After a sentence there appears an attached condition or exception. If it follows immediately, then it is taken into consideration, otherwise not. For example, if one has to say to his slave: *"You are free, if you enter the house."*
Or if one says: *"I owe so and so a thousand, less a hundred."*

4. Bayaan-e-Dharoorat بیان ضرورت-- Definition

According to necessity, to make a non-statement the means of expounding a given statement.

Hukm

It will be taken into consideration and practiced upon without the condition of being joined or not.

Example

Silence is taken as speech. For example,

ورثه ابواه فلامّه الثلث

In this Aayat the inheritance share of the mother is mentioned, and not that of the father. It will necessarily follow that after the mother

the balance will be for the father. Likewise, if the occasion arises where a person must say something and he maintains silence, then this silence will be taken as a statement. For example, whenever Nabi ρ saw someone executing an action and he maintained silence, then this silence was taken as consent for the permissibility of that act.

5). Bayaan-e-Tabdeel بيان تبديل *-- Definition*

This is where a latter sentence cancels out and abrogates a former one. This is also known as *Naskh* (abrogation).

Hukm

The ruling of the former sentence is cancelled and practice is to be made on the latter sentence.

Example

After migration to Madinah Munawwarah, Salaat was made facing the direction of Baitul Maqdis, for the first few months. This ruling was abrogated by the Aayat:

فولّ رجهك شطر المسجد الحرام

Thereafter Salaat was made facing the direction of Baitullaah.

QUESTIONS

1. *What is the reality of Bayaan?*
2. *What are the dictionary and Shar'i definitions of Bayaan?*
3. *How many types of Bayaan are there and what are they?*
4. *Define Bayaan-e-Taqreer*
5. *What is its Hukm?*
6. *Cite and example*
7. *Define Bayaan-e-Tafseer*
8. *What is its Hukm?*
9. *Cite and example*

10. *Define Bayaan-e-Taghyaar*
11. *What is its Hukm?*
12. *Cite and example*
13. *Define Bayaan-e-Dharoorat*
14. *What is its Hukm?*
15. *Cite and example*
16. *Define Bayaan-e-Tabdeel*
17. *What is its Hukm?*
18. *Cite and example*

SUNNAT سنّت

Dictionary definition:

A path, way, habit, action.
سنّ يسنّ - To make common/initiate, to make a way.

Shar'i meaning:

The statements and actions of Nabi ρ and his Sahaabah.

The connection of the Sunnat to the Qur'aan Majeed

It is the commentary and interpretation thereof. The explanation and interpretation which Nabi ρ imparted and what the Sahaabah taught after learning from him, all fall under the (classification of) Sunnat.

Discussion / Classification of Sunnat

This is divided into two sections: The first is related to the actual physical words. These are subject to the same details and classifications which were described under the section relating to the Qur'aan Majeed.

The second is in relation to the special and unique rules pertaining to the Hadith. These will be discussed under the section of Sunnat.

The Usooli parts of Sunnat

There are two. The first part is that where the names of the narrators are mentioned.

The second part comprises the actual text of the speech of either Nabi ρ or his Sahaabah.

The first part is called the *sanad(سند)* , and the narrators the *raawis (راوي).* If the Hadith is narrated with the *sanad(سند)* , then it is called *musnad(مسند)* .

Those which are not reported with the narrators, are called *mursal (مرسل).*

Both, *musnad* and *mursal* are taken into consideration, on condition that there exists no undesirable attachment when subjected to the *usools (*principles) and *qawaa'id* (rules).

The second part is called the *matan* or *marwi*.

There are various categories of *musnad* in relation to the number of narrators and other factors; *mutawaatirah, mash'hoor* and *khabar-e-waahid.*

1). Mutawaatirah متواتره

This refers to those narrations whose narrators are so numerous, right from the inception to the end, that owing to their number and integrity (piety and honour), there is no possibility of falsehood or doubt. The related issue is a thing of perception, i.e. it is something which can be seen or heard.

Ruling – Hukm

Belief and practice upon it is obligatory and refutation thereof is kufr.

Example

The Rakaats of Salaat

***2). Mash'hoor* مشهور**

This refers to those narrations where the narrators during the era of the Sahaabah τ were only one, two or a handful. However, during the era of the Tabieen and the subsequent eras, the narrators reached the limit of *Tawaatur* (continuous chain).

Hukm

Practice thereupon with contentment (of it being authentic) is necessary. To reject it is deviation, but not kufr.
Example
The Hadith of stoning of the married adulterer.

***3). Khabar-e-Waahid* خبر واحد**

Those narrations where the number of narrators never even reached the level *Shoh'rat* (being *Mash'hoor*). That is, those narrations where there was only one or two narrators right from the beginning to the end, or in any one of the eras.

Hukm

It is given the benefit of the doubt and practice thereupon is in accordance to the conditions and circumstantial evidences attached thereto.

Example

The general Ahaadith are *Khabar-e-Waahid*.

All types of (Shar'i) laws are derived from *Mutawaatirah* and *Mash'hoor*. They are also used to substantiate and confirm the laws found in the text of the Qur`aan Majeed. *Khabar-e-Waahid* is used to establish *Aqaa'id* (beliefs). Punishment and retribution is not established by it. The text of the Qur`aan Majeed cannot be complimented by the use of *Khabar-e-Waahid*.

QUESTIONS

1. *What is the dictionary definition of Sunnat?*
2. *Give the Shar'i meaning of Sunnat*
3. *What relationship does the Sunnat have with the Qur`aan Majeed?*
4. *How many divisions are there in the discussion of Sunnat and what are they?*
5. *How many Usooli parts are there to Sunnat and what are they?*
6. *What is sanad and isnaad?*
7. *What is a Raawi?*
8. *What is a masnad?*
9. *What is called a Mursal?*
10. *What is considered in musnad and mursal?*
11. *What is the second part called?*
12. *How many types of musnad are there and what are they?*
13. *What is Mutawaatirah?*
14. *Give its Hukm and an example*
15. *What is the definition of Mash'hoor? Cite its Hukm and example*
16. *Define Khabar-e-Waahid and what is its Hukm and cite an example*
17. *What aspects are established via Mash'hoor and Mutawaatirah?*
18. *What is established through Khabar-e-Waahid?*
19. *What is allowed to compliment (the interpretation of) the Qur`aan Majeed and what is not?*

<u>IJMA اجماع</u>

Dictionary meaning:

To make a decisive verdict, to be unanimous on a certain thing.

Shar'i meaning

After the demise of Nabi ρ, for all the Ulama-e-Mujtahideen of any particular era to be unanimous on an issue, on condition that it is with all its *Furoo'aat* (subsidiaries). It is not considered with regard to *Usool*, i.e. basic beliefs.

1). *A fundamental (constituent of Ijma)*: Unanimity.
2). *Personalities (instrumental in forming Ijma)*: Reliable Ulama-e-Mujtahideen
3). *Reality:* Unanimity on views and opinions
4). *Condition:* Unanimity of all the Ulama of that era
5). *Sources:* Are three, Kitaab (Qur`aan Majeed), Sunnat and Qiyaas.
6). *Need*: If any ruling cannot be found with certainty in the Qur`aan Majeed or Sunnat, then reflection and contemplation is required thereupon, wherein a solution is sought. If this solution is derived by unanimity and collectively, then it is classified as *Ijma*.
7). *Types:* With regard to its being transmitted, there are three: *Mutawaatirah, Mash'hoor* and *Aahaadi*;

1). Mutawaatir(متواتر):

That which has been transmitted without any difference of opinion in a continuous chain, right from the era of the Sahaabah τ.

Hukm: Belief and practice are both obligatory. Refutation is kufr.

Example: Unanimity on the Khilaafat of Hadhrat Abu Bakr τ.

***2). Mash'hoor*(مشهور) :**

That which has been transmitted with unanimity from after the first era.

Hukm: Contentment and practice are necessary, and not belief. Refutation is deviation.

Example: The impermissibility of *Mut'a* (temporary Nikah). There are a few narrations of permissibility from a few Sahaabah τ. However, there is consensus amongst the Ulama of the Ahle Sunnat Wal Jamaat on its *Hurmat* (being totally impermissible).

***3). Aahaadi*(احادي) :**

That which is transmitted by way of individuality (i.e. its chain of narrators are very few in number).

Hukm: Similar to *Khabar-e-Waahid*. It is given the benefit of the doubt. Neither is belief nor contentment necessary.

Example: The unanimity of the four Rakaats before the Fardh of Zuhr Salaat. This has been reported in the *Aahaad*.

QUESTIONS

1. *What is the dictionary meaning of Ijma?*
2. *Define Ijma according to the Shariah*
3. *What is the fundamental constituent of Ijma?*
4. *What is the condition of Ijma?*
5. *Who are the personalities eligible to make Ijma?*
6. *What are the sources and foundations of Ijma?*
7. *What is the reality of Ijma?*

8. *What is the necessity of Ijma?*
9. *How many types of Ijma are there and what are they?*
10. *Explain Mutawaatir, together with its Hukm and an example*
11. *Define Mash'hoor together with its Hukm and an example*
12. *What is classified as Aahaadi, and what is its Hukm and cite an example.*

QIYAAS قياس

Dictionary meaning:

To measure, estimate, opine, make straight.

Shar'i meaning:

Based on a common *Illat* (causative factor), to establish the ruling/law of a defined thing and attach it to an undefined thing.

Necessity* ضرورت *:

If there is no solution found to a certain matter in the Qur`aan Majeed and Sunnat, and there also exists no Ijma, then after contemplating and reflecting upon these three sources, one reaches a suitable solution. This individual reflection and seeking for a solution is termed *Qiyaas.*

Reality* حقيقت *:

This is not the mere opinion of anyone. In fact, with relation to the matter at hand, one has to carefully reflect and bring it under scrutiny in the light of what has been established (by means of the former three sources). Thereafter, a suitable ruling will be attached thereto after a common causative factor has been established (between the 'new' *mas'alah* and an already established ruling).

Basis* بنياد *: Kitaab (Qur`aan Majeed), Sunnat and Ijma

Application* مواقع *: On corollary *masaail* besides beliefs and *Aqaa'id.*

Constituents of Qiyaas **قياس اركان** ***:*** There are four: *Maqees alaih, Maqees, Illat-e-Jaami'a* and *Hukm-e-Jaami'*

1). Maqees alaih **مقيس عليه** *:* That thing which has an established ruling

2). Maqees **مقيس** *:* That issue for which a ruling is sought

3). Illat-e-Jaami'a **علّت جامع** *:* That quality which is the basis for the ruling which is found in the *Maqees alaih,* and which is common with the *Maqees*.

4). Hukm-e-Jaami' **حكم جامع** *:* It is that ruling which by means of a causative factor (*Illat*) was extracted from the *Maqees alaih* and established for the *Maqees*.

Hukm of Qiyaas:

The ruling of the *Maqees alaih* will be applied to the *Maqees* with relative certainty, and with the possibility of error.

Example:

Wine and all other intoxicants are Haraam due to the common factor of having the ability to intoxicate. Wine is the *Maqees alaih* and all other intoxicants will be the *Maqees*. Intoxication will be the *Illat-e-Jaami'a* and *Hurmat* (being Haraam) is the *Hukm-e-Jaami.* The impermissibility and *Hurmat* of wine is established from the Qur`aan Majeed.

QUESTIONS

1. *What is the dictionary meaning of Qiyaas?*
2. *Give the Shar'i meaning*
3. *What is the necessity of Qiyaas?*
4. *What is the reality of Qiyaas?*
5. *What is the basis of Qiyaas?*

6. *What is the application of Qiyaas?*
7. *How many constituents are there in Qiyaas and what are they?*
8. *What is the Hukm of Qiyaas?*
9. *Cite and example and explain.*

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Translation Edited By
Mufti Afzal Hoosen Elias
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BY

Mufti Muhammad Ubaidullah Al Asadi

Translation Edited By

Mufti Afzal Hoosen Elias

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